

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 28, 2014

AMENDED IN SENATE APRIL 2, 2014

**SENATE BILL**

**No. 1207**

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**Introduced by Senator Wolk  
(Coauthors: Senators Knight and Liu)**

February 20, 2014

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An act to add and repeal Article 1 (commencing with Section 18701) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1207, as amended, Wolk. California Voluntary Contribution Program.

Under the existing Personal Income Tax Law, taxpayers are allowed to contribute amounts in excess of their tax liability for the support of specified funds. Existing law provides for various voluntary contribution check-off funds to be listed on the income tax return.

This bill would modify the existing voluntary check-off system by establishing the California Voluntary Contribution Program to be administered by the office of California Volunteers to expand the contribution options for a taxpayer. The bill would provide that the purpose of the program is to promote charitable giving and collect through the personal income tax return individual taxpayers' voluntary contributions ~~to~~ *either to specified charities in a pool of up to 200* qualified applicants, defined to include any charitable organization meeting certain requirements or a state or local agency *or to make a general charitable gift*. Not later than January 1, 2017, the bill would

require the office to, among other things, develop the application to participate in the program and establish application and renewal fees. The bill would authorize the office to adopt specified policies and guidelines to regulate the number of qualified applicants participating in the program. The bill would authorize the office to adopt regulations necessary to carry out these provisions and would make these regulations subject to the Administrative Procedure Act. The bill would require the Franchise Tax Board to revise the personal income tax form in a manner necessary to inform an individual about how to make a designation to ~~any qualified applicant~~ *designations to qualified applicants or to the Charitable Giving Fund.*

Commencing on January 1, 2017, this bill would allow an individual taxpayer to designate a contribution to ~~any qualified applicant up to 5 qualified applicants or to the Charitable Giving Fund.~~ The bill would require an applicant wishing to receive contributions to submit an application to the program, including an application fee. The bill would require the office to approve an application if specified requirements, and other reasonable requirements, are met, thereby making a qualified applicant eligible to receive voluntary contributions. The bill would require these contributions to be transferred from the Personal Income Tax Fund to the California Voluntary Contribution ~~Fund, Fund or to the Charitable Giving Fund, both of which are created by this bill.~~ The bill would require moneys in the California Voluntary Contribution Fund and the Charitable Giving Fund, upon appropriation by the Legislature, to be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and the balance ~~from the California Voluntary Contribution Fund to the office of California Volunteers for distribution to each qualified applicant designated by an individual and the balance from the Charitable Giving Fund to the office for distribution as grants for charitable purposes, in accordance with policies and procedures established by the office.~~ The bill would establish a specified minimum contribution amount for each qualified applicant. The bill would prohibit a qualified applicant from receiving voluntary contributions if, among other things, the average amount of contributions received during certain calendar years did not equal the minimum contribution amount.

This bill would annually require the office to provide the Legislature with a report containing specified information on the program. The bill would also require this report to be made available to the public. *The bill would also require the office to work in consultation with the*

*Department of Finance to develop a strategy to propose to the Legislature for a continuous appropriation to distribute taxpayers' contributions to the designated qualified applicants.*

This bill would repeal these provisions on January 1, ~~2030~~, unless a later enacted statute deletes or extends that date 2023.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) The Legislature finds and declares that the  
2     state has a role in informing the public of the value and need for  
3     community service, volunteerism, and charitable giving as a form  
4     of civic engagement in order to support important social and  
5     community programs. The Legislature further finds and declares  
6     that there are many worthy charitable causes in California that  
7     may benefit from taxpayers' voluntary charitable contributions on  
8     the tax form, but are not able to do so under the existing tax  
9     check-off process. Therefore, it is the intent of the Legislature to  
10    promote civic engagement by establishing a program where  
11    taxpayers have the opportunity to give to a wide range of charitable  
12    causes on their tax return.

13    (b) It is the intent of the Legislature to retain all existing funds  
14    currently on the tax return form until their repeal dates, and, in  
15    legislation to be enacted at a later date, transition the remaining  
16    funds to the California Voluntary Contributions Program by 2020.  
17    It is further the intent of the Legislature that the dates of repeal for  
18    the California Fund for Senior Citizens, the California Firefighters'  
19    Memorial Fund, and the California Peace Officer Memorial  
20    Foundation Fund be extended in legislation to be enacted at a later  
21    date.

22    SEC. 2. Article 1 (commencing with Section 18701) is added  
23    to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation  
24    Code, to read:

25  
26           Article 1. California Voluntary Contribution Program  
27

28       18701. For the purposes of this article, the following definitions  
29    shall apply:

1 (a) “Charitable organization” means an organization exempt  
2 from income tax as an organization described in Section 23701d.

3 (b) “Local agency” and “state agency” have the same meanings  
4 as defined in Section 6252 of the Government Code.

5 (c) “Office” means the office of California Volunteers, as  
6 established by Executive Order S-24-06, or its successor.

7 (d) “Program” means the California Voluntary Contribution  
8 Program *established by this article*.

9 (e) “Qualified applicant” means either of the following:

10 (1) A charitable organization that meets all of the following  
11 requirements:

12 (A) Has registered in this state with the Attorney General’s  
13 Registry of Charitable Trusts for each of the three years prior to  
14 the date of application and has met each of the requirements that  
15 apply to the applicant, under statute and as established by the  
16 Attorney General for the Registry of Charitable Trusts.

17 (B) Has submitted annual returns or statements with the  
18 Franchise Tax Board, pursuant to Section 23771, 23772, or 23774  
19 for each of the three years prior to the date of application.

20 (C) Has average annual total revenues in excess of the minimum  
21 contribution-level amount described in Section 18705, as calculated  
22 from each of the three years prior to the date of application, not  
23 including those contributions made by a designation in excess of  
24 the tax liability on an individual’s tax return.

25 (2) Is a local agency or state agency.

26 18702. (a) There is hereby established in state government the  
27 California Voluntary Contribution ~~Program~~. *Program*.

28 (b) The purpose of the program is to promote charitable giving  
29 and provide individual taxpayers’ voluntary contributions to  
30 qualified applicants. The office ~~or a successor agency~~, shall be  
31 responsible for administering the program.

32 (c) *The number of qualified applicants that may participate in*  
33 *the program each taxable year shall be no more than 200, less the*  
34 *number of funds established pursuant to Chapter 3 (commencing*  
35 *with Section 18711) of Part 10.2 of Division 3.*

36 18703. (a) A qualified applicant that wishes to receive  
37 voluntary contributions through the program shall submit an  
38 application to the office by a date established by the office. The  
39 application shall include all of the following:

1 (1) Evidence satisfactory to the office that the applicant is a  
2 qualified applicant. All documents submitted to the office shall be  
3 made public.

4 (2) An application fee, as established by the office pursuant to  
5 Section 18710 in an amount sufficient to cover the reasonable costs  
6 of administering the application process.

7 (b) The office shall approve an application if the requirements  
8 of subdivision (a) and other reasonable requirements consistent  
9 with this article are met, thereby making a qualified applicant  
10 eligible to receive voluntary contributions.

11 (c) This section shall become operative on January 1, 2017.

12 18704. A qualified applicant whose application is approved  
13 by the office may continue to receive voluntary contributions if  
14 the following requirements are met:

15 (a) Contributions received by the qualified applicant through  
16 the program in the prior year meet or exceed the minimum  
17 contribution-level *amount* established for the program, as described  
18 in Section 18705.

19 (b) The qualified applicant continues to meet the requirements  
20 established for qualified applicants in subdivision (e) of Section  
21 18701.

22 (c) The qualified applicant submits an application for renewal  
23 and pays a renewal fee, as determined by the office pursuant to  
24 Section 18710.

25 (d) This section shall become operative on January 1, 2017.

26 18705. (a) The minimum contribution amount for each  
27 approved qualified applicant is one hundred thousand dollars  
28 (\$100,000).

29 (b) Notwithstanding subdivision (a), the office ~~shall~~ *may* adopt  
30 regulations to adjust the minimum contribution ~~requirement every~~  
31 ~~five calendar years, amount beginning with the third calendar year~~  
32 ~~after the first appearance of the “California Voluntary Contributions~~  
33 ~~Fund” on the personal income tax return on January 1, 2020.~~

34 (c) This section shall become operative on January 1, 2017.

35 18706. (a) A qualified applicant may no longer receive  
36 voluntary contributions if either of the following apply:

37 (1) The average amount of contributions received during three  
38 calendar years did not equal the minimum contribution  
39 ~~requirement, amount~~, as described in Section 18705.

(2) The designee no longer meets the definition of a “qualified applicant” pursuant to subdivision (e) of Section 18701.

(b) When a qualified applicant is no longer eligible to receive voluntary charitable contributions pursuant to this article, the office shall revoke the eligibility of the qualified applicant from the program and notify the Franchise Tax Board of the revocation *by a date specified by that board.*

*(c) A qualified applicant whose eligibility is revoked may participate in the program for the subsequent calendar year if the Franchise Tax Board is unable to revise the tax form and related materials for that year.*

~~(e)~~

(d) A qualified applicant whose eligibility is revoked from participation in the program may reapply to the program no sooner than ~~five~~ *three* years after the eligibility was revoked.

~~(d)~~

(e) This section shall become operative on January 1, 2017.

18707. (a) An individual may designate on the personal income tax return that a contribution in excess of the tax liability, if any, be made ~~to a specific~~ *as follows*:

~~(1) To up to five specific qualified applicant applicants whose application has applications have been approved pursuant to Section 18703. The contribution shall be deposited in the California Voluntary Contribution Fund established by Section 18708. That designation is to be used as a voluntary contribution on the tax return.~~

~~(2) To the Charitable Giving Fund pursuant to Section 18708.~~

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the original return for that taxable year, and once made shall be irrevocable. If payments and credits reported on the return, together with any other credits associated with the individual’s account, do not exceed the individual’s liability, the return shall be treated as though no designation has been made.

(d) The Franchise Tax Board, in consultation with the office, shall revise the tax form of the return to allow for the designation permitted under subdivision (a). The form shall also include in the instructions information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used

1 to support ~~the~~ *a designated* qualified applicant *or applicants or*  
2 *the Charitable Giving Fund, as specified by the taxpayer.*

3 (e) A deduction shall be allowed under Article 6 (commencing  
4 with Section 17201) of Chapter 3 of Part 10 for any contribution  
5 made pursuant to subdivision (a).

6 (f) This section shall become operative on January 1, 2017.

7 18708. (a) *(1) There is hereby established in the State Treasury*  
8 *the California Voluntary Contribution Fund to receive contributions*  
9 *to qualified applicants made pursuant to Section 18707.*

10 *(2) (A) There is hereby established in the State Treasury the*  
11 *Charitable Giving Fund to receive contributions made pursuant*  
12 *to Section 18707.*

13 *(B) The office shall administer the Charitable Giving Fund and*  
14 *develop policies and procedures, including, but not limited to, a*  
15 *competitive grant process, to distribute the funds to charitable*  
16 *organizations.*

17 (b) The Franchise Tax Board shall notify the Controller of both  
18 the amount of money paid by individuals in excess of their tax  
19 liability and the amount of refund money ~~which~~ *that* individuals  
20 have designated pursuant to Section 18707 to be transferred to the  
21 California Voluntary Contribution Fund *and the Charitable Giving*  
22 *Fund.* The Controller shall transfer from the Personal Income Tax  
23 Fund to the California Voluntary Contribution Fund an amount  
24 not in excess of the sum of the amounts designated by individuals  
25 *to qualified applicants* pursuant to Section 18707 for payment into  
26 that fund *and shall transfer to the Charitable Giving Fund an*  
27 *amount not in excess of the sum of the amounts designated by*  
28 *individuals for that fund.*

29 (c) This section shall become operative on January 1, 2017.

30 18709. (a) All money transferred to the California Voluntary  
31 Contribution *Fund and the Charitable Giving* Fund, upon  
32 appropriation by the Legislature, shall be allocated as follows:

33 (1) To the Franchise Tax Board, the Controller, and the office  
34 for reimbursement of all costs incurred in connection with their  
35 duties under this article.

36 ~~To~~ *(2) From the California Voluntary Contribution Fund, to*  
37 *the office for distribution to each qualified applicant designated*  
38 *by a taxpayer.*

1 (3) *From the Charitable Giving Fund, to the office for*  
2 *distribution according to the regulations established for*  
3 *distributions from the fund.*

4 (b) On and after January 1, 2020, no more than 5 percent of  
5 money from the ~~fund~~, *funds*, exclusive of fee revenues, shall be  
6 used for administrative purposes.

7 (c) All moneys may be carried over from the year in which they  
8 were received and encumbered in any following year.

9 (d) In the event that no designee is specified or the specified  
10 designee is not a qualified applicant, the contribution shall, after  
11 reimbursement of the direct actual costs of the Franchise Tax Board  
12 for the collection and administration of funds under this article,  
13 be transferred to the office to further the purposes of this article.

14 (e) In the event an individual designates a contribution to a  
15 qualified applicant whose eligibility for receiving voluntary  
16 contributions has been revoked, but that was eligible to receive a  
17 voluntary contribution for the taxable year in which the designation  
18 was made, the contribution shall be distributed to the qualified  
19 applicant.

20 (f) In the event an individual designates a contribution to more  
21 than one qualified applicant listed on the tax return, and the amount  
22 available is insufficient to satisfy the total amount designated, the  
23 contribution shall be allocated among the designees on a pro rata  
24 basis.

25 (g) This section shall become operative on January 1, 2017.

26 18710. (a) The office shall, not later than January 1, 2017, do  
27 all of the following:

28 (1) Develop the application and related materials to be  
29 completed by applicants to participate in the program, including  
30 the types of proof necessary to comply with the program.

31 (2) By regulation, establish reasonable and necessary application  
32 and renewal fees in an amount not to exceed the reasonable costs  
33 of administering the application and renewal process.

34 (3) Develop procedures and adopt regulations to inform  
35 taxpayers on how to contribute directly to a charitable organization  
36 or state or local agency if that charitable organization or state or  
37 local agency is not eligible to receive contributions because it did  
38 not meet the required minimum contribution amount.

39 (4) In consultation with other agencies that regulate charitable  
40 organizations, develop policies and procedures to ensure that



1 qualified applicants are in compliance with applicable statutes  
2 affecting those charitable organizations.

3 (5) Develop a plan to transition the remaining funds on the tax  
4 return to the program. That plan should be submitted to the relevant  
5 committees of the Legislature by January 1, 2020.

6 (6) *Work in consultation with the Department of Finance to*  
7 *develop a strategy to propose to the Legislature for a continuous*  
8 *appropriation to distribute taxpayers' contributions to the*  
9 *designated qualified applicants.*

10 (b) The office may do the following:

11 (1) Form an advisory body or related bodies as deemed  
12 necessary.

13 (2) Contract with other agencies, public or private, as deemed  
14 necessary in pursuit of the duties described in this act.

15 (3) Adopt regulations necessary for the administration of this  
16 article.

17 (4) In order to develop the program and sustain the integrity of  
18 its operations, the office may adopt policies and guidelines that  
19 may include, but not be limited to, application cut-off dates, a  
20 first-come-first-served system, or a lottery, to ~~regulate~~ *limit* the  
21 number of qualified applicants *within the number specified in*  
22 *subdivision (c) of Section 18702*, participating in the program based  
23 on legislative appropriations and workforce capacity. ~~This~~  
24 ~~paragraph shall become inoperative on January 1, 2023.~~

25 (c) (1) The office shall annually provide to the Legislature, and  
26 make publicly available, a report on the program, including goals,  
27 a baseline, metrics and targets to track, over time, the effectiveness  
28 of efforts to encourage charitable giving. The annual report shall  
29 include information on total contributions received, administrative  
30 and related costs, and total contribution distributed to qualified  
31 applicants.

32 (2) (A) A report to the Legislature pursuant to this section shall  
33 be submitted in compliance with Section 9795 of the Government  
34 Code.

35 (B) This subdivision shall be become inoperative on January 1,  
36 2020, pursuant to Section 10231.5 of the Government Code.

37 (d) The Franchise Tax Board shall revise the tax form and any  
38 other related materials, including online materials, in order to allow  
39 an individual to designate a contribution to any one of the qualified  
40 applicants approved pursuant to Section 18703 *and to the*

1 *Charitable Giving Fund*. These forms and materials may include,  
2 but not be limited to, a separate schedule, booklet, or any other  
3 material necessary to inform an individual about qualified  
4 applicants and how to make a designation on the personal income  
5 tax return.

6 18711. Any regulation adopted pursuant to this article shall be  
7 adopted pursuant to the Administrative Procedure Act (Chapter  
8 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
9 Title 2 of the Government Code).

10 18712. This article shall remain in effect only until January 1,  
11 ~~2030~~, 2023, and as of that date is repealed, unless a later enacted  
12 statute, that is enacted before January 1, ~~2030~~, 2023, deletes or  
13 extends that date.